

Decision **DRAFT DECISION OF ALJ BUSHEY** (Mailed 3/22/05)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting
Investigation and Order to Show Cause on the
Commission's own motion into the operations
and practices of Stanley King Chee Wong and
Xiu Ping Cui, a partnership doing business as
K & T Moving Co. and KW Moving, K & T
Moving/K.W. Moving Inc., a California
corporation, its Agent for Service of Process
Stanley King Chee Wong, and ABC Moving, Inc.,
a California corporation, its President Su Fen Wu
and its Manager Stanley King Chee Wong,

Applicants/Respondents.

Investigation 04-04-002
(Filed April 1, 2004)

OPINION GRANTING PETITION TO MODIFY DECISION 04-11-017

I. Summary

This decision grants the petition of ABC Moving, Inc., (ABC) to modify Decision (D.) 04-11-017 to reduce ABC's fine and modify the payment plan.

II. Background

On November 19, 2004, the Commission issued D.04-11-017, which, among other things, denied the then-pending application of ABC for a household goods carrier permit and imposed a fine of \$2,000 on ABC for advertising moving services without a permit to provide the services. The entire amount was due 90 days after the effective date of the order.

On March 2, 2005, ABC filed its petition to modify D.04-11-017 to reduce the fine amount to \$1,000, payable in \$100 monthly increments. ABC stated that its sole shareholder, Su Fen Wu, is a currently unemployed single mother of three children, and that paying the \$2,000 fine is impossible as she does not even have enough money to buy food for her children.

The Commission's Consumer Protection and Safety Division did not oppose the request for a payment plan, but objected to reducing the fine.

III. Discussion

Pursuant to Rule of Practice and Procedure 47(h), in response to a petition to modify, the Commission may, among other things, modify the decision as requested.

As noted in D.04-11-017, the Commission has adopted a series of factors to consider when setting fine. Among those factors are the financial resources of the carrier. In that decision, the Commission noted that the record showed that ABC had a bank balance of over \$3,000. ABC's petition to modify states that its sole shareholder is suffering substantially reduced financial circumstances, with superseding family responsibilities. For good cause shown, we will grant the relief requested as set forth below.

Ordering Paragraph 3 of D.04-11-017 shall be modified to read:

Respondents Su Fen Wu and ABC Moving, Inc, jointly and severally shall pay the total sum of \$1,000 to the California Public Utilities Commission for deposit to the General Fund, and remitted to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. Such amount is payable in monthly payments of no less than \$100, beginning the first day of the month following the effective date of this order.

IV. Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Commission's Rules of Practice and Procedure. No Comments were filed.

V. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Finding of Fact

ABC's sole shareholder's financial resources have substantially diminished.

Conclusion of Law

ABC's request to reduce its fine to \$1,000 payable in \$100 monthly increments should be granted.

O R D E R**IT IS ORDERED** that:

1. The petition of ABC Moving, Inc. to modify Decision (D.) 04-11-017 is granted.
2. Ordering Paragraph 3 of D.04-11-017 is replaced in full by the following:

Respondents Su Fen Wu and ABC Moving, Inc, jointly and severally shall pay the total sum of \$1,000 to the California Public Utilities Commission for deposit to the General Fund, and remitted to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. Such amount is payable in monthly payments of no less than \$100, beginning the first day of the month following the effective date of this order.

3. This proceeding is closed.

This order is effective today

Dated _____, at San Francisco, California.